

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5658

PETITION OF REDA AND NADIA ASAAD

(Hearing held October 17, 2001)

OPINION OF THE BOARD

(Effective date of Opinion, November 8, 2001)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1994, as amended) for a variance from Section 59-C-1.323(a). The petitioners propose to construct a two-story garage addition that requires a 8.33 foot variance as it is within nineteen (19) feet of the established front building line. The established front building line is 27.33 feet.

Cara A. Frye, Esquire, represented the petitioners at the public hearing.

The subject property is Lot 10, Block 2B, North Chevy Chase Subdivision, located at 3701 Jones Bridge Road, Chevy Chase, Maryland, in the R-60 Zone (Tax Account No. 00525101).

Decision of the Board: Requested variance **granted**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioners propose to construct a two-story garage addition in the northeast corner of the lot. Ms. Frye stated that the property is an unusually shaped, corner lot located at the intersection of Jones Bridge Road and Montgomery Avenue.
2. Ms. Frye stated that the petitioners' lot is narrower than the properties along Montgomery Avenue and shallower than the properties along Jones Bridge Road because the property's eastern boundary line slopes inward as it approaches the rear of the property. See, Exhibit No. 12. Ms. Frye stated that the property's lot lines are not parallel to one another and that only one corner of the property forms a right angle, which severely reduces the buildable space.
3. Ms. Frye stated that the addition was moved forward approximately four feet to reduce the amount of the requested variance and that the addition could not be located in the front, rear or western side yards. No access to the property is available from Jones Bridge Road, access to on-site parking is only available from Montgomery Avenue.
4. The property faces an elementary school and backs up to other residential properties. Ms. Frye stated that the petitioners have spoken with their neighbors and that the neighbors support the variance request. A petition of support from the

adjoining and neighboring property owners was submitted into the record as Exhibit No. 13.

FINDINGS OF THE BOARD

Based on the petitioners' binding testimony and the evidence of record, the Board finds that the variance can be granted. The requested variance complies with the applicable standards and requirements set forth in Section 59-G-3.1 as follows:

- (a) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The property is a uniquely shaped, shallow lot. The Board finds that the exceptional shallowness and shape of the lot are conditions peculiar to the property. The Board further finds that the strict application of the regulations would result in unusual practical difficulties and an undue hardship upon the property owners if the variance were to be denied.

- (b) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that the construction of the two-story garage addition as proposed is the minimum reasonably necessary to overcome the unique conditions of the property.

- (c) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The proposed construction will continue the residential use of the property and the variance will not impair the intent, purpose, or integrity of the general plan or approved area master plan.

- (d) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The record contains no testimony or correspondence in opposition to the variance request. A petition of support from the adjoining and neighboring homeowners was entered in the record as Exhibit No. 13 and the Board finds that the variance will not be detrimental to the use and enjoyment of the neighboring and adjoining homeowners.

Accordingly, the requested variance of 8.33 feet from the required 27.33 foot established front building line for the construction of a two-story garage addition is granted subject to the following conditions:

1. The petitioners shall be bound by all of their testimony and exhibits of record, and the testimony of their witnesses and representations of their attorney, to the extent that

such evidence and representations are identified in the Board's Opinion granting the variance.

2. Construction must be completed according to plans entered in the record as Exhibit Nos. 4 and 6(a) through 6(f).

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above is adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Louise L. Mayer, seconded by Allison Ishihara Fultz, with Louise L. Mayer and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution. Board member Donna L. Barron was necessarily absent and did not participate in this Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 8th day of November, 2001

Katherine Freeman
Executive Secretary to the Board

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-month period within which the variance granted by the Board must be exercised.

The Board shall cause a copy of this Opinion to be recorded among the Land Records of Montgomery County.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.